



ARKANSAS AGRICULTURE DEPARTMENT

ARKANSAS FORESTRY COMMISSION
ARKANSAS LIVESTOCK AND POULTRY COMMISSION
ARKANSAS STATE PLANT BOARD

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Frequently Asked Questions: Dicamba

Do we know the cause of the dicamba-related complaints, in 2017?

The 2017 Case Files are still being investigated and we do not have final determinations for products that were used, or even if dicamba was involved. No specific products have been identified for any of the alleged misuse.

Each year, the ASPB handles a significant number of complaints relating to alleged chemical misuse; the complaints may name a suspected chemical, but until inspectors are able to get on site and diagnose based on symptomology, and collect records, there is no way to make a determination on the chemicals used.

Case files are still being investigated and we do not have final determinations. No specific products have been identified for any of the alleged misuse or even if dicamba was involved.

Each year, inspectors handle a significant number of complaints related to the alleged misuse of pesticides. These complaints may name a suspected pesticide but until inspectors are able to conduct an official investigation at the site of the complaint there is no way to make an official determination on the specific cause.

How can someone file a pesticide misuse complaint in Arkansas?

Complaints may be filed by calling the Arkansas Agriculture Department's Plant Board Pesticide Division at (501) 225-1598.

What process is used to handle complaints?

- When a complaint is received it is assigned to a field inspector who will conduct a formal investigation.
- Investigation findings are submitted to the Pesticide Division to be reviewed for any violations of federal/state laws and regulations.
- If a violation is determined, it is then presented to the Plant Board's Pesticide Committee and Board for final approval. Violations range from a Warning Letter to a Civil Penalty of \$1000.
- The alleged violator may request an informal hearing with the Pesticide Division staff or a formal hearing before the Plant Board Pesticide Committee.
- If a formal hearing is requested, the Plant Board is represented by counsel. The respondent may also be represented by counsel if they so choose.

What process do inspectors use in determining that dicamba is an actual cause of crop damage?

- Inspectors photograph the alleged affected area, and the surrounding area. The photographs also include weeds. Samples are taken at the discretion of inspectors.
- A map is constructed of the area, which includes the location where each photograph was taken along with other pertinent landmarks. The inspector takes photos and walks the area looking for pesticide symptomology and tracks the symptomology in order to determine the source of the alleged drift.
- The inspector then gathers pesticide applicator records from the requester and surrounding farmers, and/or commercial ground and aerial applicators. The inspectors also obtain pesticide purchase records from pesticide dealers in the area.
- The inspector generates a narrative describing what was found and if a source of the drift was determined. Then the case is sent to the office.
- Office staff review all of the evidence and add all applicable license information and weather data. Office staff members also review the label and all federal and state laws and regulations. Then staff members make a determination concerning whether violations occurred.

How long does it take to complete an investigation?

The goal is to have all case files reviewed and completed to the point of assigning the initial violations within 3 months of initiation. Complaints are reviewed on an individual basis and each complaint is different regarding how long it takes a complaint to be completed.

If all parties involved are cooperative and provide detailed records, inspectors can typically complete their investigation within 30-45 days. Once the investigation is received by the Pesticide Division, their review can be completed in another 30 days culminating in the assignment of violations to the case if applicable.

Dicamba cases are often complex and lengthy, depending on the area showing symptoms and the number of applicator/farmers that are involved. With multiple applicators and farmers, the Case Files take longer to complete and review due to the number of records that must be gathered and then checked for violations.

Violations for 2015 and 2016 dicamba case files were typically sent within 2-3 months of the start of investigations. However, several case files have taken 6-12 months to complete to the point of assigning violations due to the suspected violators not cooperating with the inspectors, not providing timely records, and the volume of materials.

What are the consequences if someone uses a pesticide inappropriately?

If a violation is determined, it is then presented to the ASPB Pesticide Committee and Board for final approval. Violations range from a Warning Letter to a Civil Penalty of \$1000. The alleged violator may request an informal hearing with ASPB staff or a formal hearing before the ASPB Pesticide Committee.

If a formal hearing is requested, the ASPB is represented by counsel and the respondent has the option of being represented by counsel also. The time until final completion (Final Full Board Approval) varies due to the appeals by the violators. Violators have 30 days to contest the Warning Letter/Consent

Agreements. If they contest the findings then those case files may take as much as a year or more due to amount of time required to be given before hearings, conducting the hearing, sending the results of the hearing and time allowed for appeals.

What is the status of dicamba related investigations from 2016?

In 2016 there were 23 case files where dicamba was confirmed as one of the pesticide involved.

Administrative actions taken include:

- 7 warning letters issued;
- 47 civil penalties assessed ranging from \$200 to \$1000 for each violation

What other complaints does the Arkansas State Plant Board handle?

The Plant Board responds to allegations of violations to any of the thirty (30) laws that it is charged with enforcing under state law. Violations may also occur under federal law where the agency has an agreement with federal agencies to serve as the enforcement entity in the state.